



Montana University System

BOARD OF REGENTS OF HIGHER EDUCATION

46 North Last Chance Gulch ♦ PO Box 203101 ♦ (406) 444-6570 ♦ FAX (406) 444-1469 ♦ www.mus.edu

BOARD OF REGENTS OF HIGHER EDUCATION

January 12, 2009

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SB 80

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SENATE EDUCATION

EXHIBIT NO. 6

DATE 1-12-2009

BILL NO. 86

Legislative Testimony by Regent Lynn Morrison Hamilton, appointed by Governor Racicot in 1999 and reappointed by Governor Schweitzer in 2006.

Ask any past or present Regent why they volunteer significant amounts of time to serve on the Board, and they'll most likely say it's because they value and care about education, they want to make a difference in the lives of students and they want to help create change. They overwhelmingly care about results and community impact in the broadest sense that builds a brighter future for Montana and its citizens. This passion for the 'cause' is one of the most energizing forces that volunteers can bring to any organization and to any board table.

Accountability is sometimes elusive and subject to competing definitions and interests. The answer often depends on how the question is asked. Over the years more than a dozen pieces of legislation have been introduced to structurally change how the University System is governed. At the same time, Montanans vote their continued support for the System every 10 years through the statewide Six Mill Levy, student enrollment grows even as demographics change, and various independent surveys show popular support for the direction the System is headed and the services and opportunities it offers.

This session the proposal is to have members elected rather than appointed by the Governor and confirmed by the Senate. The proposal comes from concerns about Board accountability, and raises some fundamental questions: To whom should the Board be accountable, and will the change make the Board more accountable? While they recognize the tremendous collaboration and consensus efforts of System administrators, Governors and politicians frequently question Regents' accountability because they want more control over the University budget, particularly the connection between State appropriations and tuition.

Three decades ago Montanan's voted to rewrite the State's Constitution because they wanted a document that would help create the vibrant future they envisioned for their communities. At the time, campuses operated in a politically charged environment, subject to pork barrel appropriations and tossed by the changing winds and policy shifts of each legislative session. Constitutional Convention delegates addressed past indiscretions, and embraced the System concept, entrusting governance to the independent judgment of a citizen board.

Regents' overriding duty is to preserve and enhance Montana's institution of higher education for current and future generations. They understand the importance of working with Governors, Legislators, constituent groups and communities. The current process keeps politics at arms length and allows the Board and System to focus on academic quality. Most regents would tell you that while they admire and respect the commitment of elected officials, they would rather invest their energy in the ongoing work of the education than invest their time and resources in launching or sustaining a statewide political campaign.

Regents may question and at times respectfully disagree with decisions made by other public policy makers. They strive to understand those decisions and, rather than become a victim of circumstance, persistently work toward three fundamental goals:

- Increase the educational attainment of Montanans.
- Assist in the expansion and improvement of the States economy.
- Improve institutional efficiency and effectiveness.

The System's mission and vision is articulated in Board planning documents guided by: (1) Montana's Constitution, statutes, and policy, (2) values and principles that shape American's system of higher education, (3) the public interest and public trust, and (4) legitimate and relevant input from numerous constituent groups. The board supervises, coordinates, manages and controls the System through policies that provide overall direction, and by making decisions and acting to ensure campuses and agencies have the appropriate human and financial resources to accomplish the work of the System.

The Board is accountable in its use of public and student funds. The system's record of independent, legislative and federal audits are as thorough as those of any private or public organization. Those audits are shared with the Governor, the Legislature, and other interested parties. They're available to the public and reviewed by accrediting agencies. Regents raise tuition and fees when the cost of providing quality education increases and State revenue isn't available. The trend of declining State support isn't going to change by electing rather than appointing Regents.

The Board is accountable for its effectiveness. Our financial house and internal policies and processes are in order. When there is a problem, it's corrected. The Board regularly reviews the mission, long-range plan, goals and strategies for achieving those goals. Most external analysts using standard board metrics would say the board is "effective." Whether elected or appointed, governance systems alone do not ensure a good board. The key elements of board effectiveness are human, not structural: commitment, competence, diversity, collective decision-making, and power – board authority that matches board responsibility.

The Regents are accountable to the broad public interest and public trust through achievement of public purpose and delivery of public benefit. The board holds itself accountable for making a difference and moving Montana forward (1) by defining what matters through its mission and vision, and (2) by putting what matters into action through its Plan (see http://mus.edu/data/strategic_plan.asp). Benchmarks for delivering results and accountability measures are developed and reported through the Legislature's PEPB subcommittee process and

projects undertaken in cooperation with the Governor's Office, Board of Education, and other stakeholders.

The Board is accountable in how it does its business. Regents take the same oath of office as elected officials, subscribe to a code of conduct, abide by all applicable laws, and regularly review and adopt best practices in oversight and operating policies. Regents hold themselves and each other accountable for preparedness, ethical behavior, and sound judgment. Board and committee meetings take place in public, except for those discussions that are expressly exempt from Montana's open-meeting laws. Board proceedings and communications are as accessible as technologies, laws and policies permit.

Over the years Board processes have become more inclusive and the Board has worked to accommodate varied and often competing interests. Board members are, however, ultimately responsible for weighing the sometimes competing claims of interested parties and the good of the System and State in a transparent decision-making process, and framing their decision in light of the System's mission and the law.

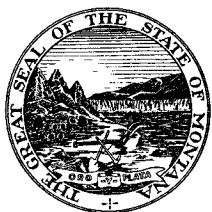
The Board approves the educational mission of the System's member institutions, approves the academic programs offered to students, and is ultimately accountable for the long term quality of the learning experience. Regional and professional accrediting agencies expect the Board to protect academic freedom and institutional autonomy in educational matters. Regents need to know about the array of educational, research, and service programs offered on System campuses and make sure these programs are consistent with institution's identity and mission. Regents are aware of and involved in the accrediting process, including regular and rigorous assessments of program quality.

The Regents are accountable to various constituencies. The Board meets regularly with representatives of various groups including students, faculty and staff leadership, business and industry associations, and community leaders in sessions held around the State. Regents invite the participation of Legislative and Congressional delegates, as well as the general public, at board meetings and welcome their regular communications. The Governor and Superintendent of Public Instruction are ex-officio members of the board and they or their designated staff representatives are active participants in policy conversations.

Montanans hold Regents, and the Board holds itself, responsible for the short term and long term consequences of its actions and decisions. The Board has moved from being simply being stewards of public resources to being actively engaged in assuring campuses and agencies are working in the common public interest. The board is more aggressive in setting strategic goals and policies for the institutions that it oversees and moving management decisions down where they belong.

The Board understands the power it has, in every decision it makes, to change lives, to make a difference, and to create a vibrant and sustainable future. The Board and System are accountable for promoting goals based in possibility, not circumstance; for building on System strengths, overcoming obstacles, and proactively measuring success. The Board can't govern for what matters without engaging students, campuses, taxpayers, and policy makers.

Show people what's possible, give them authority and responsibility, and they do what's necessary to get there. That's true for boards, organizations and individuals. Regents have been a powerful force for change because focused on results. They've created extraordinary, visionary, long term impact and served more students with fewer taxpayer dollars. They've invested in technologies and processes that make the System more efficient, effective and transparent. They're committed to economic and workforce development, research and technology transfer. They've been change agents and there's more work to be done. So let's stop looking at higher education governance as a problem-to-be-solved, and start looking at citizen governance as an opportunity to change the world.



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January 9, 2009

STEVE BARRETT
Chair
Billings

Senator Dan McGee
Capitol Building
Helena, MT

CLAYTON CHRISTIAN
Vice-Chair
Billings

Re: SB-80

Dear Senator McGee and Committee Members:

LYNN MORRISON-
HAMILTON
Havre

I am currently the Chairman of The Board of Regents for the Montana University System (BOR), and write to offer comment on SB-80. I appreciate your interest in higher education, and the motivation of developing more accountability within the system. This is a laudable goal, and we Regents spend considerable time wrestling with obtaining accountability over a large and geographically diverse institution. While appreciating your goals, I believe that amending the constitution to provide for the direct election of Regents would weaken the governance structure of the institution, make it more amenable to partisan politics, have any number of other unintended consequences and have little or no effect on improving accountability.

LILA TAYLOR
Busby

TODD BUCHANAN
Billings

The first question we must ask plays on the old axiom, "If it's not broken, don't fix it." It is difficult to measure success and accountability in a large enterprise. As a Board we are realistic, and would not try to convince you or the citizens of this state that the system is perfectly managed or that improvements cannot be made. Yet let's take a look from a high level. Through our ongoing efforts to align shared policy goals and accountability measures with the Legislature (which has been done successfully), it has become overly apparent that the Montana University System (MUS) is one of the most efficient and productive systems of higher education in the nation. Two points illustrate this fact: 1) the MUS spends a smaller amount of state funds per student than nearly any other state in the nation; and 2) the MUS produces more bachelor's degree recipients per 100 students enrolled than any other state in the nation. Think of it, more than any other state. Efficiency may not be the direct equivalent of accountability, but it certainly indicates many people are taking their job seriously. What part of these facts suggests a need to fix anything?

JANINE PEASE
Poplar

MITCH JESSEN
Student Regent
Bozeman

EX-OFFICIO MEMBERS

SHEILA STEARNS
Commissioner
of Higher Education

But let's take a look at the alternative contemplated by the proposed legislation. The current BOR consists of seven people. Three, including myself, are business people at various points in their career; another is a rancher, one a former educator, one a PH.D educator who is a founding president of a Tribal College and one a statutorily mandated student Regent. The current membership reflects a broad base of expertise and experience, but they probably do not represent the pool of people who would necessarily bear the time and expense of a statewide campaign to rise to an essentially unpaid position which requires considerable time and effort.

BRIAN SCHWEITZER
Governor

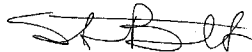
DENISE JUNEAU
Superintendent of Public
Instruction

Further, the term for a Regent is seven years. Since the Board was created under the 1972 constitution only a handful of Regents have opted for a second term. Your bill does not suggest a change in the length of term, and given the complexities of the institution such a change would be counter productive. Though not a legislative lawyer, if a change of length of term is contemplated I believe the law would require such a change to be spelled out in the language of the proposed constitutional amendment. But my point is that if the term does not change very few, if any, elected members of the BOR would opt for second terms. Seven years is a long time in a difficult and unpaid position. The result would provide no more, and probably less accountability that we have now. I suggest less in that an elected BOR member may feel more bound by the promises made running for office than to the fiduciary duty imposed by the law. Each year one of the seven regents' terms expires, thus creating both long term stability, and annually bringing in a fresh perspective. This has served the Board and the people of the state very well.

In historical terms Montana has a very modern constitution, it having been created in 1972. A serious effort was made to change the autonomous nature of the constitutional mandate of the BOR and governance of the university system in 1996 through proposed constitutional amendment C-30, which was defeated by the voters. Follow on attacks in the 1997 legislature, notably HB-259 and HB-500 also did not pass. The citizens have indicated satisfaction with the existing system.

We have a system that is working well. Certainly there are issues and various legislative audits have brought those to the fore. There will always be some areas that need improvement in a business the size of the university system, whether in private industry or in the university or government world. But the solution in a system that is working well is not to alter the structure, the solution is to roll up your sleeves, get the facts and solve the problem. Our system works well and I submit that the proposed legislation will not improve accountability or the system. I thank you for your consideration of these remarks.

Very truly yours,



Steve Barrett
Chairman, Montana Board of Regents